



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

March 26, 1957

Hon. Glyndon M. Hague  
County Attorney  
Johnson County  
Cleburne, Texas

Opinion No. WW-76

Re: Necessity of a specialized  
motor carrier certificate  
for a cooperative of dairy-  
men organized under the Coop-  
erative Marketing Act, to  
haul bulk milk to market.

Dear Sir:

Your request for an opinion of this office in your letter of March 14, 1957, on the above subject matter is, in part, as follows:

"Is it necessary for a cooperative organized under the Cooperative Marketing Act of the State of Texas to have a specialized motor carrier certificate to haul bulk milk within the State?"

You further state in your letter:

"It is my conclusion that a group of dairymen, who organize an association under the Cooperative Marketing Act, for the purpose of hauling their bulk milk to market, is exempt from the requirement of having a specialized motor carrier certificate."

Motor carriers are regulated in Texas and must obtain proper certificates or permits from the Railroad Commission before commencing operation. However, Article 911b, Section 1a(1), V.C.S., provides:

"Provided, however, that the term 'motor carrier' and the term 'contract carrier' as defined in the preceding section shall not be held to include:

"(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products . . . of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract, livestock, wool, mohair, milk and cream, fresh fruits

and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act."

Article 911b, Section 1a(2), provides:

"The term 'person' as used in this Act shall include persons, firms, corporations, companies, co-partnerships, or associations or joint stock associations (and their receivers or trustees appointed by any Court whatsoever).

We have carefully considered the above mentioned statute in connection with your inquiry and are in agreement with your conclusion that this group of dairymen are exempt from the requirement of having a specialized motor carrier certificate.

The statute is plain and unambiguous and must be interpreted literally. As defined in the statute, the term "person" includes "associations". Such an organization, being an association, is exempt from the requirement of having a specialized motor carrier certificate for hauling their bulk milk to market on a vehicle of which it is the bona fide owner. If milk belonging to others is hauled in a co-op truck for compensation, then a specialized motor carrier certificate must be secured.

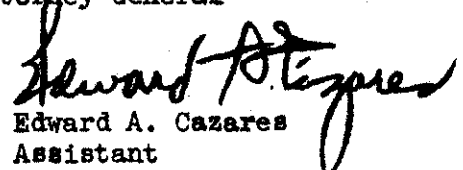
SUMMARY

An association of dairymen who organize under the Cooperative Marketing Act of Texas, for the purpose of hauling bulk milk owned by the association (or its members) to market on a vehicle of which it is the bona fide owner, is exempt from the requirement of having a Specialized Motor Carrier Certificate.

Very truly yours,

WILL WILSON  
Attorney General

By

  
Edward A. Cazares  
Assistant

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APPROVED:

OPINION COMMITTEE  
H. Grady Chandler, Chairman